

the time for responding to this Office Action is extended to include April 6, 2004 under 37 CFR §1.136(a). A check in the amount of four hundred seventy five dollars (\$475) for the three-month extension is enclosed herein (small entity).

### REMARKS

Claims 1-28 are pending in the application. Claims 1-28 were rejected under 35 U.S.C. § 103(a) as allegedly obvious over a single reference Olivier. For the following reasons, the rejections are respectfully traversed and Applicant respectfully requests that the rejections be withdrawn.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness, and until such a showing is made, Applicants are under no obligation to present evidence of non-obviousness. See *In re Piasecki*, 223 U.S.P.Q. 785, 787-88 (Fed. Cir. 1984) (acknowledging that the PTO bears the initial burden of establishing a *prima facie* case of obviousness.). To establish a *prima facie* case, the PTO must satisfy three requirements. First, the prior art relied upon, coupled with the knowledge generally available at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or to combine references. See *In re Lee*, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002) (vacating the Board's finding of obviousness because the Board failed to provide the evidentiary foundation and specific rationale for its conclusion that the prior art contained the required motivation to combine the teachings of the prior art); see also *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Second, the proposed modification of the prior art must have had a reasonable likelihood of success, determined from the vantage point of a skilled artisan at

the time the invention was made. See *Amgen, Inc. v. Chugai Pharm. Co.*, 18 U.S.P.Q.2d 1016, 1023 (Fed. Cir. 1991). Lastly, the prior art reference or combination of references must teach or suggest all the limitations of the claims. See *In re Zurco*, 59 USPQ2d 1693, 1696-97 (Fed. Cir. 2001) (reversing the Board's finding of obviousness because the cited prior art failed to disclose one limitation of the claimed invention); see also *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). It is well established that the teachings or suggestions, as well as the reasonable expectation of success, must come from the prior art, not from the applicant's disclosure. See *In re Vaeck*, 20 U.S.P.Q. 1438, 1442 (Fed. Cir. 1991).

Applicant respectfully submits that the Examiner has failed to establish a *prima facie* showing of obviousness. As set forth in independent claims 1 and 15, the present invention relates to methods and system which allow users to interact with web based forms containing question-based online queries or polls. The interaction with such polls, or question-based online queries, is live and real time.

In stark contrast, the interactions described in Olivier is based on emails, a format in which interaction is inherently not real time. It's an email-based newsletter format with dissemination and targeting of email content based on users' preferences and types of communications that they are willing to receive. It's basically a newsletter subscription service for people to find other people with same type of interests to send contents back and forth to. The examiner's observation that "modification/selection of the disclosure of Olivier would have provided means for 'creating high quality interactions within

electronic forms” is misplaced because Olivier is silent and does not teach or suggest using polls as claimed, but instead only refers to email-based message board system. As described in Olivier’s Summary of the Invention, “a presently preferred embodiment of the present invention is directed to a method for users to exchange group electronic mail by establishing individual profiles and criteria for determining personalized subsets within a group.”

Also, as acknowledged by the Examiner, Olivier fails to teach many of the claimed elements: “Olivier lacks an explicit recitation of “A method of providing remote users with a centralizing polling environment”....; “Oliver lacks an explicit recitation of the elements and limitations of claims 2-14”; “Olivier lacks an explicit recitation of “building a profile for one of said users based on said interaction with said one of selected polls; and building a profile for one of said users based on said interaction.” (Office Action at 3-5). Any assertion that Olivier suggests modification of its teachings to meet the claimed methods and systems would be possible only after reading the Applicant’s disclosure and would be thus based on improper hindsight construction.

It is thus respectfully submitted that independent claims 1 and 15 are not obvious over Olivier. Similarly, claims 2-14 and claims 16-28, which ultimately depend from claim 1 and claim 15, respectively, are not obvious-at-least-for-the-same reasons that these independent claims are not obvious. Further, it is noted that the Examiner’s alleged Office Notice regarding claims 16-28 are insufficient as the Examiner fails to explain the basis with specificity as to how such Office Notice is appropriate.

In sum, the Examiner has failed to satisfy each of the three requirements for establishing a *prima facie* case of obviousness. Consequently, Applicants respectfully request that the rejection of claims 1-28 and 70 under 35 U.S.C. § 103(a) be withdrawn.

**CONCLUSION**

In view of the foregoing remarks, Applicants believe that the entire application is in condition for allowance and such action is respectfully requested. If it is believed that prosecution can be assisted thereby, the Examiner is invited to contact Applicant at the below-listed telephone number.

Respectfully submitted,

Dated: March 22 2004

A handwritten signature in black ink, appearing to read 'P. H. Kim', is written over a horizontal line.

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